

**How to file a**

# SPECIAL EXCEPTION PETITION



## HOW TO FILE A SPECIAL EXCEPTION REQUEST

### **Q. I'VE BEEN TOLD I NEED TO REQUEST A SPECIAL EXCEPTION. WHAT IS A SPECIAL EXCEPTION AND HOW DO I REQUEST ONE?**

A. A special exception is a specific authorization of a proposed land use in a given zoning district, but only upon showing that certain conditions can be met. In Tippecanoe County, only the Area Board of Zoning Appeals can grant a special exception after a Public Hearing at one of its meetings.

### **Q. WHEN AND WHERE DOES THE BOARD MEET?**

A. January through October, the Board meets the 4th Wednesday of each month. We also meet the 1st Wednesday of December. Our meetings are at 7:00 PM in the County Office Building, 20 N. 3rd Street, Lafayette

### **Q. HOW DO I MAKE MY REQUEST?**

A. Your request for a special exception must be filed with the Area Plan Commission Staff. They will give you all the forms you need.

### **Q. IS THERE A FILING DEADLINE?**

A. Yes. Your complete submission must be filed no less than 28 days before we hold our Public Hearing on your request, that is, at least 4 weeks before our next meeting.

### **Q. WHAT MAKES UP A COMPLETE SUBMISSION?**

A. You must submit all these items before the deadline:

1. Petition: A signed and notarized Petition for Special Exception, with the metes and bounds legal description of your property;
2. Notarized Consent: If you don't own the property, or if you're buying on contract, a notarized letter of consent from all owners authorizing the request;
3. Interested Persons List: A list of all people who own property either adjacent to yours, or across a street, alley or railroad right-of-way from it, or otherwise within 100 feet of it. (You can get names, addresses, and "key numbers" of their properties from the County Auditor's Office.)
4. Site Plans: (5) copies of dimensioned site plans, drawn to scale, showing your property lines, all of your existing and/or proposed buildings and parking areas, any easements or rights-of-way;
5. (2) completed Notice of Public Hearing forms, with the complete legal description of your property;
6. (2) completed Release Letters;
7. Fee: A \$250 non-refundable processing fee. (Amended 1/22/03)

If your submission is complete at the filing deadline, we will notify you by mail that your request has been placed on the Agenda of the Board's next meeting. (If not, we'll tell you what's missing, but you will have missed that month's deadline. Our bylaws tell how to appeal this decision.)

**Q. THEN WHAT HAPPENS TO MY COMPLETE SUBMISSION?**

A. Because you have provided (2) Release Letters, the Staff can take your Notices of Public Hearing to the Journal & Courier and the Lafayette Leader. The Notices will be published once, (10) days before the meeting, and the newspapers will each send you a bill. Staff will study your request and mail a written report and recommendation to you and the Board on the Friday before the meeting.

**Q. DO I DO ANYTHING ELSE BEFORE THE MEETING?**

A. Yes. At least (10) days before the meeting, you must:

8. Sign Posting: Put up a Notice of Request for Special Exception sign on each frontage of your property (You buy these at the APC Office for \$10 each.);

9. Mail Letters: By Certified Mail, send to every name on the submitted list of interested persons, a completed copy of the Notice to Interested Persons Letter. (return receipt not needed);

10. Newspaper: Pay your bills from the newspapers and receive a Proof of Publication from each.

Then, you will have to give all these items to the APC Staff: **The hearing will be continued to the next month's meeting if paperwork is not complete.**

11. The (2) Proofs of Publication, one from each newspaper;

12. The Affidavit of Notice to Interested Persons form, signed by you and notarized;

13. All the Certified Mail receipts from the postal clerk for the letters you sent out.

14. The Affidavit of Sign Posting form, signed by you and notarized on the day of the meeting.

**Q. WHAT HAPPENS AT THE MEETING?**

A. If you've successfully completed items 1-14 above, the Board will hold a Public Hearing on your request. Either you or your representative must be there, or we'll dismiss your case. When your turn comes, the Staff will read its report and recommendation. You'll then be given an opportunity to speak, as will all others who either support or oppose your request. The Board can then ask questions. You'll be given an opportunity to have the last word. The Board will then fill out written ballots, either voting for or against your request. We're a 7-member Board, but no matter how many of us are present, you'll need at least (4) "yes" votes to be granted your special exception, or (4) "no" votes to have it denied. Fewer than (4) either way and your request is automatically continued to the next meeting.

**Q. HOW DOES THE BOARD DECIDE?**

A. In order for us to approve your special exception, at least (4) of us have to agree that your request meets all these criteria:

1. the zoning ordinance permits your proposed use in your zoning district as a special exception;

2. your proposed use meets all other rules and requirements of the zoning ordinance;

3. your special exception will not subvert the general purposes served by the zoning ordinance;

4. your special exception will not materially and permanently injure others in your zoning district and vicinity because of: traffic generation; placement of outdoor lighting; noise; or hours of operation. When you make your case to us, please take these criteria seriously. We do.

**Q. WHAT IF I'M NOT READY FOR THE MEETING?**

A. At any time before your hearing comes up, you may ask the Board for a continuance, usually until the next meeting. At your scheduled meeting we may grant the continuance at our own discretion. Please remember we will grant you no more than (2) continuances that you've either asked for, or that are necessary because you haven't completed items 1-14 above. After that, your special exception request will either be heard or dismissed. Please be fair to others interested in your request by filing a continuance request in writing with the Staff at least the week before the scheduled meeting. And please make sure your Notice of Request for Special Exception sign stays posted on your property continuously until the Board has finally decided your request.

**Q. WHAT DO I DO AFTER THE BOARD MAKES ITS DECISION?**

A. If your request has been granted, you are now free to seek the building permit that started you on this process. But you have to establish your use within a year or you'll lose your approval. If it has been denied, you'll need to change your plans. In either case, please remove the Notice of Request for Special Exception sign from your property within the next (5) days.

**Q. IS THERE ANYTHING ELSE I NEED TO KNOW?**

A. There are a few specific rules you need to be aware of:

1. You cannot communicate either directly or indirectly with any member of our Board before your Public Hearing takes place. Any materials you want to submit before the hearing, must be given to the Staff. Our bylaws go into detail about what happens if you've violated this rule.

2. All forms, applications, evidence, materials, etc. that you've submitted to the Staff and the Board, either before or at your Public Hearing, become the property of the Board. They are a matter of public record, and they can be seen by any person who asks.

**The Staff is available to answer your questions, assist you, or provide you with forms and copies of our bylaws. Please contact them at the Area Plan Commission, 20 North 3rd Street, Lafayette, 765-423-9242.**

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